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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/665,368	09/19/2000	Lon S. Safko	1173.001	5060
7590	05/09/2005		EXAMINER	
John L Rogitz Esq Rogitz & Associates 750 B Street Suite 3120 San Diego, CA 92101			CHANG, JUNGWON	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 05/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/665,368

Applicant(s)

SAFKO, LON S.

Examiner

Jungwon Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-17, 20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-17, 20 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)

FINAL ACTION

1. This action is responsive to amendment and declaration under rule 131 filed on 1/5/2005. Claims 10, 18 and 19 have been canceled, claims 20 and 21 are newly added. Claims 1-9, 11-17, 20 and 21 are presented for examination.

2. Declaration by Mr. Safko is not accepted for proof of conception and reduction to practice before the critical date of October 13, 1999 (the filing date of Kitty Hawk). Mr. Safko declaration is not sufficient because the evidence does not meet the standard of enablement under 35 USC 112. A claim in and of itself is not proof that applicant was in complete possession of the invention. Applicant may wish to consider filing a 131 affidavit along with a written specification.

3. Examiner objected claims 11-13, 15 and 16 in the prior office action dated 11/30/2004 (i.e., claims 11-13, 15 and 16 are objected to because they are depended on canceled claim 10). However, those claims are not amended to overcome the objection. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-9 and 11-17, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over KittyHawk Software, Inc. "Origami Flowers", 10/13/1999, hereinafter referred to as Kitty Hawk in view of Glassner (US 6,311,142).

6. As to claim 1, KittyHawk discloses a method for providing paper models (i.e., Origami Flowers; page 1, paragraph 1, figures), comprising:

allowing a user to access a computer site (i.e., KittyHawk computer site) ("Origami Flowers", page 1, downloading on-line paper model to user; by clicking on "free version" hyperlink, user is directed to go to another web page, "Download");

providing, on the computer site, at least one model page ("Origami Flowers", page 1, here is a list of the twelve origami flowers, Camellia, Iris, Geranium, Tulip...; Figures; "Download", pages 1 and 2, Fun Flyers: Jet, Paper Air Force, The Greatest Paper Airplanes...);

permitting the user to print at least one data file from the model page ("Origami Flowers", page 1, paragraph 1, print the included designs or use your favorite wrapping paper), the data file being useful for causing a computer printer ("Origami Flowers", page 1, color printing of decorated flower design; page 2, color printer) a substrate having model indicia thereon ("Origami Flowers", page 1, Look what you can learn and do: Learn how to fold 12 beautiful origami flowers and 1 stem... Folding tips gives

you...), wherein the model indicia is useful for configuring the substrate into a paper model ("Origami Flowers", page 1, simple to follow animated 3D folding instructions

make it easy to create origami flowers).

7. KittyHawk discloses downloading on-line paper model from the computer site (KittyHawk computer site; "Origami Flowers", page 1, downloading on-line paper model to user; by clicking on "free version" hyperlink, user is directed to go to another web page, "Download"). However, KittyHawk does not specifically use terms "a wide area computer network". Glassner discloses a wide area computer network (i.e., WAN, 852, fig. 20) (col. 12, lines 19-34; col. 11, lines 22-28). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of KittyHawk and Glassner because Glassner's WAN would improve the performance of KittyHawk's system by allowing the computer site to simultaneously distribute the paper model to a plurality of users via the network.

8. As to claim 2, KittyHawk discloses data file is further useful for causing the computer printer to print assembly instructions for the paper model ("Origami Flowers", page 1, Look what you can learn and do).

9. As to claims 3-5, KittyHawk discloses generating accounting data when the user accesses the model page ("Origami Flowers", page 2, clicking on the hyperlink "click here for easy ordering options...", user is directed to go web page "Three easy ways to order", pages 1-3).

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10. As to claim 6, KittyHawk discloses providing at least one hyperlink to the model page, whereby the user accesses the model page by clicking on the hyperlink ("Origami Flowers", page 1, "free version" hyperlink, page 2, Even more paper models, "click here for easy ordering options" hyperlink).

11. As to claim 7, KittyHawk discloses presenting at least a portion of an object on the model page (figures; "Origami Flowers", page 1, i.e., flowers, stem).

12. As to claim 9, it is rejected for the same reasons set forth in claim 1 above. In addition, KittyHawk discloses at least one user computer ("Origami Flowers", page 2, Windows version, Macintosh version).

13. As to claim 11, it is rejected for the same reasons set forth in claim 2 above.

14. As to claims 12 and 14, it is rejected for the same reasons set forth in claims 3 and 5 above.

15. As to claim 13, it is rejected for the same reasons set forth in claim 4 above.

16. As to claim 15, it is rejected for the same reasons set forth in claim 6 above.

17. As to claim 16, it is rejected for the same reasons set forth in claim 7 above.

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18. As to claim 17, it is rejected for the same reasons set forth in claim 8 above.

19. As to claim 20, it is rejected for the same reasons set forth in claims 1 and 9 above. In addition, KittyHawk discloses generating a model file at least in part using 3D stereoscopic photography (figures); the model file being printable onto a paper substrate (print the included designs or use your favorite wrapping paper; page 1, paragraph 1); providing instructions regarding manipulating the paper substrate into a 3D object (following animated 3D folding instructions; page 1, paragraph 1); and making the model file and instructions available to a user (page 1, paragraph 1; not sure about just how fun & easy creating origami flowers can be, a free version is available on-line for you to download; page 1, paragraphs 2-3).

20. KittyHawk discloses a storage device (16 MB RAM; 14 MB of hard disk space; page 2) and downloading a file to user (it is inherent that downloading has a function transferring a file from a server to a user's computer on the network and then storing in user's memory; not sure about just how fun & easy creating origami flowers can be, a free version is available on-line for you to download; page 1, paragraphs 2-3). However, KittyHawk does not specifically disclose storing the model file on a data storage device. Glassner discloses storing the model file on a data storage device (col. 11, lines 40-67; col. 12, lines 1-4 and 19-53). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of KittyHawk and Glassner because Glassner's storing model file on a storage device would allow the

user to retrieve a desired file as needed.

21. As to claim 21, it is rejected for the same reasons set forth in claim 20. In addition, KittyHawk discloses the data storage device is included on a computer site on the Internet (16 MB RAM; 14 MB of hard disk space; page 2), and the act of making the model file and instructions available to a user (following animated 3D folding instructions; page 1, paragraph 1) includes allowing the user to access the computer site using the Internet (it is inherent that downloading has a function transferring a file from a server to a user's computer on the network and then storing in user's memory; not sure about just how fun & easy creating origami flowers can be, a free version is available on-line for you to download; page 1, paragraphs 2-3).

22. Applicant's arguments filed 1/5/2005 have been fully considered but they are not persuasive.

23. In the remarks, applicants argued in substance that

(1) The Declaration under rule 131 establishes that the present invention predates the earliest filing date of the KittyHawk reference, thus eliminating the KittyHawk reference as prior art.

24. Examiner respectfully traverses applicant's remarks:

25. As to point (1), Declaration by Mr. Safko is not accepted for proof of conception

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and reduction to practice before the critical date of October 13, 1999 (the filing date of Kitty Hawk). Mr. Safko declaration is not sufficient because the evidence does not meet the standard of enablement under 35 USC 112. A claim in and of itself is not proof that applicant was in complete possession of the invention. Applicant may wish to consider filing a 131 affidavit along with a written specification.

Furthermore, the home page of KittyHawk reference has earliest filing date, 5/8/1999 that teaches print & build paper models (Print & Build Western Building, filing date 5/7/1999). Those references are cited on PTO-892.

26. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jungwon Chang whose telephone number is (703)305-

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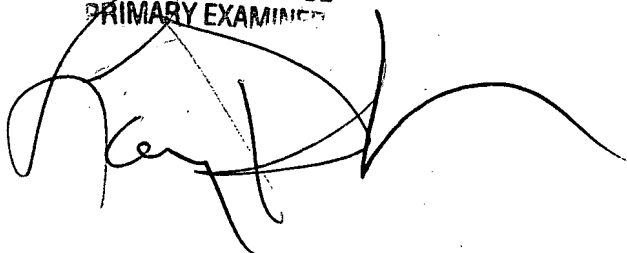
9669. The examiner can normally be reached on 9:30-6:00 (Monday-Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on (703)305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWC
May 4, 2005

LARRY D. DONAGHUE
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Larry D. Donaghue', is written over the printed name and title of the examiner.